

## ORDINANCE C-27-05

### AN ORDINANCE TO AMEND VARIOUS SECTIONS TO CHAPTER 191 OF THE CODIFIED ORDINANCES OF GROVE CITY, OHIO, TITLED INCOME TAX

---

WHEREAS, House Bill 718 set uniform standards for municipal tax codes to align with; and

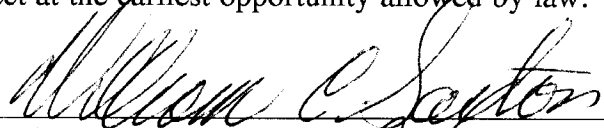
WHEREAS, it is necessary to adopt the uniform local income tax code identified as Exhibit "A" to comply with this legislative mandate.

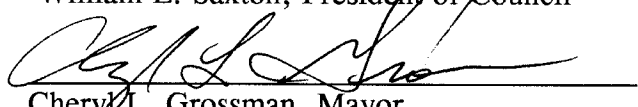
NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF GROVE CITY, STATE OF OHIO, THAT:

**SECTION 1.** Chapter 191 titled Income Tax is hereby amended as shown in Exhibit "A", attached hereto and made a part hereof.

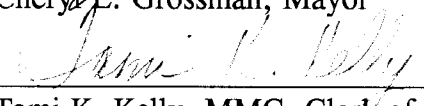
**SECTION 2.** This ordinance shall take effect at the earliest opportunity allowed by law.

Passed: 4-21-05  
Effective: 5-04-05

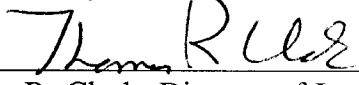
  
William E. Saxton, President of Council

  
Cheryl L. Grossman, Mayor

Attest:

  
Tami K. Kelly, MMC, Clerk of Council

I Certify that this ordinance is correct as to form.

  
Thomas R. Clark, Director of Law

**ORD. C-27-05**  
**EXHIBIT "A"**

**GROVE CITY INCOME TAX CODES**  
**CHAPTER 191**  
**Income Tax**

191.01	Definitions.
191.02	Taxable moneys.
191.021	Additional tax. (Repealed)
191.03	Allocations of net profits.
191.04	Levy of tax.
191.05	Return; payment of tax.
191.06	Amended return; refunds for overpayment.
191.07	Collection at source.
191.08	Declarations.
191.09	Duties of Director of Finance.
191.10	Investigative powers of the Director of Finance.
191.11	Tax information confidential.
191.12	Collection of unpaid taxes.
191.13	Interest and penalties.
191.14	Exemptions.
191.15	Credit for tax paid to another Municipality.
191.16	Contract provisions.
191.17	Allocation of funds.
191.18	Separability.
191.19	Limitation of prosecution.
<b>191.20</b>	<b>Collection Of Tax After Termination Of Ordinance.</b>
<b>191.21</b>	<b>Board Of Review.</b>
191.99	Penalty.

**CROSS REFERENCES**

Power to levy - see Ohio Const., Art. XVIII, Sec. 3  
Fiscal year - see CHTR. 5.01  
Tax levy - see CHTR. 5.04  
Limitation on property tax rate - see CHTR. 6.01  
Deductions from City employee's wages - see Ohio R.C. 9.42  
Municipal income taxes - see Ohio R.C. Ch. 718  
Director of Finance - see ADM. 139.01  
Admissions tax - see ADM. 193.01 et seq.

---

**191.01        DEFINITIONS.**

As used in this chapter, the following words shall have the meaning ascribed to them in this section, and except as and if the context clearly indicates or requires a different meaning:

- (a) ~~The singular includes the plural. The masculine gender includes the feminine and neuter genders.~~  
**"Adjusted Federal Taxable Income" means a "C" Corporation's Federal Taxable Income before net operating losses and special deductions as determined under the Internal Revenue Code, but including subsequent adjustments from required additions and**

**deductions. Pass-through entities must compute "Adjusted Federal Taxable Income" as if the pass-through entity was a "C" Corporation. This definition does not apply to any taxpayer required to file a return under Ohio Revised Code (ORC) Section 5745.03 or to the net profit from a sole proprietorship. This definition is effective for tax years beginning on or after January 1, 2004.**

- (b) "Association" means a partnership, limited partnership, **limited liability company**, or any other form of unincorporated enterprise ~~owned by two or more persons~~.
- (c) **"BOARD OF REVIEW" means the board created by and constituted as provided in SECTION 191.21.**
- (d) "Business" means an enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, fiduciary, trust, association, corporation or any other entity.
- (e) "City" means the City of Grove City.
- (e) ~~"Commissioner of Taxation" means the person who has been designated to act as administrative head of the Department of Income Taxation or the person executing the duties of the aforesaid Commissioner.~~
- (f) "Corporation" means a corporation, **sub-chapter S Corporation as defined in the Federal Tax Code, 26 U.S.C. 1361**, or joint stock association organized under the laws of the United States, State of Ohio, or any other state, territory or foreign country or dependency.
- (g) **"Domicile" means the permanent legal residence of a taxpayer. An individual may have more than one residence but not more than one domicile.**
- (h) **"Employee" means one who works for income, wages, salary, commission or other type of compensation in the service of and under the control of an employer.**
- (i) "Employer" means an individual, partnership, association, corporation, governmental body, unit or agency or any other entity whether or not organized for profit, that employs one or more persons on **an income**, salary, wage, commission or other compensation basis. (Ord. C7-71. Passed 3-1-71.)
- (h) ~~"Employee" means one who works for wages, salary, commission or other type of compensation in the service and under the control of an employer. (Ord. C104-90. Passed 12-17-90.)~~
- (j) **"Fiscal Year" means an accounting period of twelve months or less, ending on any day other than December 31st.**
- (k) **"Generic Form" means an electronic or paper form designed for reporting estimated municipal income taxes, and/or annual municipal income tax liability, and/or separate requests for refunds that contain all the information required on grove city's regular tax return and estimated payment forms, and are in a similar format that will allow processing of the generic forms without altering the city's procedures for processing forms.**
- (l) "Gross receipts" means the total income ~~from any source whatsoever~~ **revenue derived from sales, work done, or services rendered.**

- (m) **"Income" means all monies, subject to limitations imposed by ORC 718, derived from any source whatsoever, including but not limited to:**
- (1) **All income, qualifying wages, commissions, other compensation and other income from whatever source received by residents of grove city, excluding income from lotteries, gambling and sports winnings, and games of chance.**
  - (2) **All salaries, qualifying wages, commissions, other compensation and other income from whatsoever source received by nonresidents for work done or services performed or rendered or activities conducted in grove city.**
  - (3) **The portion attributable to the city of the net profits of all unincorporated businesses, associations, professions, corporations, or other entities, from sales made, work done, services performed or rendered, and business or other activities conducted in grove city.**
- (n) **"Income Tax Ordinance" means the income tax ordinance codified as chapter 191.**
- (o) "Net profits", **for taxable years prior to 2004,** means the net gain from the operation of a business, profession, enterprise or other activity, whether or not such business, profession, enterprise or other activity is conducted for profit or is ordinarily conducted for profit, after provision for all ordinary and necessary expenses either paid or accrued in accordance with the accounting system (**i.e., either cash or accrual**) used by the taxpayer for Federal income tax purposes without deduction of taxes imposed by this chapter, Federal, State and other taxes based on income, and in the case of an association, without deduction of salaries paid to partners, and other owners; and otherwise adjusted to the requirements of this chapter. (**for taxable years 2004 and later, see "adjusted federal taxable income".**)
- (p) "Nonresident individual" means an individual who is not domiciled in the City of Grove City and whose usual place of abode is outside of the City of Grove City.
- (q) "Nonresident unincorporated business entity" means an unincorporated business entity not having an office or place of business within the City of Grove City.
- (r) **"Person" means every natural person, partnership, fiduciary, association or corporation. whenever used in any clause prescribing and imposing a penalty, "person," as applied to any unincorporated entity, means the parties or members thereof and as applied to corporations, the officers thereof.**
- (s) "Place of business" means any bona fide office, other than a mere statutory office, factory, warehouse or other place which is occupied and used by the taxpayer in carrying on any business activity individually or through anyone or more of his regular employees regularly in attendance.
- ~~(n) "Person" means every natural person, partnership, fiduciary, association or corporation. Whenever used in any clause prescribing and imposing a penalty, "person," as applied to any unincorporated entity, means the parties or members thereof and as applied to corporations, the officers thereof.~~
- (t) **"Qualifying Wage" means wages as defined in section 3121(a) of the internal revenue code, without regard to any wage limitations, but including subsequent adjustments from required additions and deductions. "qualifying wage" represents employees' income from which municipal tax shall be deducted by the employer, and any wages not considered a part of "qualifying wage" shall not be taxed by the city. this definition is effective january 1, 2004, for taxable years 2004 and later.**

- (u) "Resident unincorporated business entity" means an unincorporated business entity having an office or place of business within the City of Grove City.
- (v) "Taxable income" means ~~wages, salaries, commissions and other compensation paid by an employer or employers before any deduction and/or the net profits from the operation of a business, profession or other enterprise or activity, including rents, adjusted in accordance with the provisions of this chapter~~ **income minus the deductions and credits allowed by this chapter. (See "Income" definition.).**
- (w) **"Tax Administrator" means the person who has been designated to act as administrative head of the department of income taxation or the person executing the duties of the aforesaid commissioner.**
- (x) "Taxable year" means the calendar year or the fiscal year upon the basis of which the net profits are to be computed under this chapter and, in the case of a return for a fractional part of a year, the period for which such return is required to be made.
- (y) "Taxpayer" means a person, whether an individual, partnership, association, or any corporation or other entity, required hereunder to file a return or pay a tax.  
(Ord. C7- 71. Passed 3-1-71.)

#### **191.02 TAXABLE MONEYS.**

To provide for the purposes of general Municipal operations, maintenance, new equipment and capital improvements of the City, there is hereby levied a tax at the rate of two percent (2%) per year upon the following:

(Ord. 88-89. Approved by electors 11- 8-83.)

- (a) On all **income**, ~~salaries,~~ **qualifying** wages, commissions and other compensation, earned **AND/OR RECEIVED** on or after July 1, 1971, by residents of the City;
- (b) On all **income**, ~~salaries,~~ **qualifying** wages, commissions and other compensation earned **AND/OR RECEIVED** on and after July 1, 1971, by nonresidents of the City for work done or services performed or rendered in the City;

**(1) Separation pay, termination pay, reduction-in-force pay, and other compensation paid as a result of an employee leaving the service of an employer shall be allocable only to Grove City.**

**(2) Grove City shall not tax the compensation of an individual if all of the following apply:**

**a. The individual does not reside in the city.**

**b. The compensation is paid for personal services performed by the individual in the city on twelve or fewer days during the calendar year. A day is a full day or any fractional part of a day.**

**c. In the case of an individual who is an employee, the principal place of business of the individual's employer is located outside the city and the individual pays tax on compensation described in subsection 191.02(b) hereof to the City, if any, in which the employer's principal place of business is located, and no portion of that tax is refunded to the individual.**

**d. The individual is not a professional entertainer or professional athlete; the promoter of a professional entertainment or sports event, or an employee of such a promoter, all as may be reasonably defined by the city.**

- (c)
  - (1) On the net profits earned on and after July 1, 1971, of all unincorporated business, professions or other activities conducted by residents of the City;
  - (2) On net profits earned on and after July 1, 1971, of all unincorporated business, professions or other activities conducted in the City by nonresidents; (Ord. C7-71. Passed 3-1-71.)
  - (3) For the purposes of subsections (c)(1) and (2) hereof, an association shall be taxed as an entity, on the net profits of the association derived from work done or services performed or rendered and business or other activities conducted in the City, whether or not such association has its principal or any place of business located in the City, effective for all accounting periods commencing on or after January 1, 1991.
  - (4) For the purposes of subsection (c)(1) hereof, a resident of the City who is a member of an association is taxed individually on that residents' entire share, whether distributed or not, of the annual net profits of the association which are not subject to entity filing under subsection (c)(3) hereof, effective for all accounting periods commencing on or after January 1, 1991. (Ord. C104-90. Passed 12-17-90.)
- (d) On the net profits on and after July 1, 1971, of all corporations, estates and trusts derived from work done or services performed or rendered and business or other activities conducted in the City, whether or not such corporation, estates and trusts have their principal or any place of business located in the City; (Ord. C73-77. Passed 9-19- 77.)
- (e) Payments made to employees by an employer as vacation wages are taxable and payments made to any employee by an employer under a wage continuation plan during periods of disability or sickness are taxable;
- (f) Taxable rentals from real property are provided for as follows:
  - (1) Rentals received by the taxpayer are to be included only if and to the extent that the rental, ownership, management or operation of the real estate from which such rentals are derived, whether so rented, managed or operated by the taxpayer individually or through agents or other representatives, constitutes a business activity of the taxpayer in whole or in part;
  - (2) Where the gross monthly rental of any real properties, regardless of number and value, aggregate in excess of one hundred dollars (\$100.00) per month, it shall be prima-facie evidence that the rental, ownership, management or operation of such properties is a business activity of such taxpayer, and the net income of such rental properties shall be subject to tax; provided that in case of commercial property, the owner shall be considered engaged in a business activity when the rental is based on a fixed or fluctuating percentage of gross or net sales, receipts or profits of the lessee, whether or not such rental exceeds one hundred dollars (\$100.00) per month; provided further that in the case of farm property, the owner shall be considered engaged in a business activity when he shares in the crops or when the rental is based on a percentage of the gross or net receipts derived from the farm, whether or not the gross income exceeds one hundred dollars (\$100.00) per month; and provided further that the person who operates a rooming

house of five or more rooms rented shall be considered in business whether or not the gross income exceeds one hundred dollars (\$100.00) per month;

- (3) In determining the amount of gross monthly rental of any real property, periods during which, by reason of vacancy or any other cause, rentals are not received shall not be taken into consideration by the taxpayer;
- (4) Rentals received by a taxpayer engaged in the business of buying and selling real estate shall be considered as part of business income;
- (5) As used in this chapter, "real property" includes commercial property, residential property, farm property and any and all other types of real estate;
- (6) In determining the taxable income from rentals, the deductible expenses shall be of the same nature, extent and amount as are allowed by the Internal Revenue Service for Federal income tax purposes;
- (7) Residents of the City of Grove City are subject to taxation upon the net income from rentals, to the extent above specified, regardless of the location of the real property owned;
- (8) Nonresidents of the City are subject to such taxation only if the real property is situated within the City. Nonresidents, in determining whether gross monthly rentals exceed one hundred dollars (\$100.00), shall take into consideration only real estate situated within the City of Grove City;
- (9) Corporations owning or managing real estate are taxable only on that portion of income derived from property located in the City of Grove City.  
(Ord. C7-71. Passed 3-1-71.)

#### **191.021      ADDITIONAL TAX.**

(EDITOR'S NOTE: This section was repealed by Ordinance C104-90, passed December 17, 1990.)

#### **191.03      ALLOCATIONS OF NET PROFITS.**

- (a) ~~In the taxation of income which is subject to the tax, if the books and records of a taxpayer conducting a business or profession both within and without the boundaries of the City disclose with reasonable accuracy what portion of its net profit is attributable to that part of the business or profession conducted within the boundaries of the City, then only such portion shall be considered as having a taxable situs in the City for purposes of the tax. In the absence of such records, a~~ Net profit from a business or profession conducted both within and without the boundaries of the City shall be considered as having a taxable situs in the City for purposes of the tax in the same proportion as the average ratio of: (Ord. C7- 71. Passed 3-1-71.)
- (1) The average ~~net book value~~ **original cost** of the real and tangible personal property owned by the taxpayer in the business or profession in the City during the taxable period to the average ~~net book value~~ **original cost** of all of the real and tangible personal property owned by the taxpayer in the business or profession during the same period, whenever situated. As used in this section, "real property" includes property rented or leased by the taxpayer, and the value of such property shall be determined by multiplying the annual rental thereon by eight; (Ord. C7-71. Passed 3-1-71; Ord. C104-90. Passed 12-17-90.)

- (2) Wages, salaries, and other compensation paid during the taxable period to persons employed in the business or professions for services performed in the City, to wages, salaries and other compensation paid during the same period to persons employed in the business or profession, wherever their services are performed. **wages, salaries, and other compensation shall be included to the extent that they represent qualifying wages.**
  - (3) Gross receipts of the business or profession from sales made and services performed during the taxable period in the City to gross receipts of the business or profession during the same period from sales and services, wherever made or performed.
- (b) In the event that the foregoing allocation formula does not produce an equitable result, another basis may, under uniform regulations, be substituted by the ~~Tax Commissioner~~ **Director of Finance** so as to produce such result.
- (c) As used in this chapter, "sales made in the City" means:
- (1) All sales of tangible personal property which is delivered within the City regardless of where title passes if shipped or delivered from a stock of goods within the City.
  - (2) All sales of tangible personal property which is delivered within the City regardless of where title passes even though transported from a point outside the City if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within the City and the sales result from such solicitation or promotion. (Ord. C70-71. Passed 3-1- 71.)
  - (3) All sales of tangible personal property which is shipped from a place within the City to purchasers outside the City regardless of where title passes if the sale is not generated through solicitation or promotion by an employee of the taxpayer at the place where delivery is made. (Ord. C104-90. Passed 12-17-90.)

#### **191.04 LEVY OF TAX.**

- (a) The tax shall be levied, collected and paid with respect to the **income**, salaries, wages, commissions, rents and other compensation earned **and/or received** on and after July 1, 1971, and with respect to the net profits of business, professions or other activities earned **and/or received** on and after July 1, 1971. Provided, however, that where the fiscal year of the business, profession or other activity differs from the calendar year the tax shall be applied to that part of the net profits for the fiscal year as shall be earned on and after July 1, 1971, to close of the taxpayer's fiscal year. Thereafter, the taxpayer shall report on its fiscal year basis.
- (b) Where the fiscal year of a business, profession or other activity is other than a calendar year, in computing initial tax, the profits of such taxpayer shall be determined by dividing the annual profits by twelve and multiplying the quotient by the number of months within the period commencing July 1, 1971, and ending at the conclusion of the fiscal year. (Ord. C7-71. Passed 3-1-71.)

#### **191.05 RETURN; PAYMENT OF TAX.**

- (a) Each taxpayer who engages in business, or whose **income**, salaries, wages, commissions, rents and other compensation are subject to the tax imposed by this chapter, shall, whether or not a tax is due thereon, make and file a return on or before April 30 **15** of each year with the Director of Finance on a form furnished by or obtained from the Director, **or on a generic form as defined in this chapter**, setting forth the aggregate amount of **income**, salaries, wages, commissions, rents and other compensation earned **and/or received**, and/or net profits earned and/or gross



income from such business less allowable expenses in the acquisition of such gross income earned during the preceding year and subject to the tax, together with such other pertinent information as the Director may require (including but not limited to copies of all w-2 forms, 1099 miscellaneous income forms, page one of form 1040, page one and two of form 1120, 1120s (including (k-1), 2106, 1065, schedule c (including cost of goods manufactured and/or sold), schedule e, schedule f and any other federal schedules if applicable). Provided, however, that when the return is made for a fiscal year or other period different from the calendar year, the return shall be made ~~on or before the last day of the fourth month~~ within one hundred five (105) days after the close of the fiscal year or other period. (Ord. C7-71. Passed 3-1-71.)

- (b) Commencing with taxable years beginning subsequent to December 31, 1981, the net loss from an unincorporated business activity may not be used to offset income, salaries, wages, commissions or other compensation. However, if a taxpayer is engaged in two or more taxable business activities to be included in the same return, the net loss of one unincorporated business activity, except any portion of a loss separately reportable for municipal tax purposes to another taxing entity, may be used to offset the profits of another for purposes of arriving at overall net profits. A husband and wife, in any taxable year, may elect to file separate or joint returns. (Ord. C74-82. Passed 10-18-82.)
- (c) If a net operating loss has been sustained in any taxable year, such losses may not be carried forward or backward to any other taxable year. (Ord. C7-71. Passed 3-1-71.)
- (d) ~~Consolidated Returns. Affiliated corporations may not deduct a loss from any other corporation having a taxable profit and operations of any affiliated corporation having a loss may not be taken into consideration in computing net profits or business allocation percentage formula.~~ (Ord. C73-77. Passed 9-19-77.)
  - (1) Any affiliated group which files a consolidated return for federal income tax purposes pursuant to section 1501 of the internal revenue code may file a consolidated return with the city. However, once the affiliated group has elected to file a consolidated return or a separate return with the city, the affiliated group may not change their method of filing in any subsequent tax year without written approval from the City.
  - (2) In the case of a corporation that carried on transactions with its stockholders or with other corporations related by stock ownership, interlocking directorates or some other method, or in case any person operates a division, branch, factory, office, laboratory or activity within the city constituting a portion only of its total business, the director of finance shall require such additional information as the director of finance may deem necessary to ascertain whether net profits are properly allocated to the city. If the Director of Finance finds net profits are not properly allocated to the city by reason of transactions with stockholders or with other corporations related by stock ownership, interlocking directorates or transactions with such division, branch, factory, office, laboratory or activity or by some other method, the director of finance shall make such allocation as the director of finance deems appropriate to produce a fair and proper allocation of net profits to the City.
- (e) The taxpayer making a return shall, at the time of the filing thereof, pay to the City the amount of taxes shown as due thereon; provided, however, that where any portion of the tax so due has been deducted at the source pursuant to the provisions of Section 191.07 or where any portion of the tax has been paid by the taxpayer pursuant to the provisions of Section 191.08 or where an

income tax has been paid to another municipality, credit for the amount so paid in accordance with Section 191.15 shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable at the time of filing the return.

- (f) A taxpayer who has overpaid his income tax in any taxable year may request a refund, provided, however, there is no other tax liability and that no amount of less than one dollar (\$1.00) will be refunded or collected. (Ord. C7-71. Passed 3-1-71.)
- (g) The Director shall have the authority to extend the time for filing of the annual return, provided the request of the taxpayer for extension is made in writing and received on or before the original due date of the return. The extension period requested may not exceed six months. For taxable year 2004 the extended due date shall be the last day of the month following the month to which the due date of the federal income tax return has been extended. For taxable years subsequent to 2004 the extended due date shall be the last day of the month to which the due date of the federal income tax return has been extended. The director of finance may deny the extension if the taxpayer's income tax account with the city of grove city is delinquent in any way. The Director may require a tentative return, accompanied by payment of the amount of tax shown to be due thereon on or before the original due date. No penalty shall be assessed in those cases in which the return is filed and the final tax paid within the period as extended.
- (h) Any business, profession, association or corporation reporting a net loss is subject to the filing requirements of this chapter.
- (i) A loss from the operation of a business may not be used to offset the income on a taxpayer's w-2 form.
- (j) Expenses shown on federal form 2106 are deductible, but are subject to review and audit by the city's income tax office. The 2106 expenses must be apportioned to municipalities in the same manner to which the related income is apportioned.
- (k) The officer or employee of such employer having control or supervision or charged with the responsibility of withholding the tax and making the payment, shall be personally liable for failure to withhold or pay the tax, penalties, or interest due as required herein. The dissolution, bankruptcy or reorganization or other fundamental change of any such employer does not discharge an officer's or employee's liability for a prior failure of such business to withhold the tax or pay taxes, penalties, or interest due. (Ord. C104-90. Passed 12-17-90.)

#### **191.06 AMENDED RETURN; REFUNDS FOR OVERPAYMENT.**

- (a) Where an amended return must be filed in order to report additional income and pay any additional tax due, or claim a refund of tax overpaid subject to the requirement and/or limitations contained in Section 191.05, such amended return shall be on a form obtainable on request from the Director of Finance. A taxpayer may not change the method of accounting (i.e., cash or accrual) or apportionment of net profits after the due date for filing the original return.
- (b) Within three months from the final determination of any Federal tax liability affecting the taxpayer's City tax liability, such taxpayer shall make and file an amended City return showing income subject to the City tax based upon such final determination of Federal tax liability, and pay any additional tax shown due thereon or make a claim for refund of any overpayments.

- (c) No refund shall be allowed unless a written request is presented to the Director within three years of the date of the taxes which were due on which such payment was made or the return was due. However, the following shall apply regarding refunds of tax withheld from non-qualified deferred compensation plans (NDCP):
- (1) A taxpayer may be eligible for a refund if the taxpayer has suffered a loss from a NDCP. The loss will be considered sustained only in the taxable year in which the taxpayer receives the final distribution of money and property pursuant to the NDCP. Full loss is sustained if no distribution of money and property will be made by the NDCP.
  - (2) A taxpayer who receives income as a result of payments from a NDCP, and that income is less than the amount of income deferred to the NDCP and upon which municipal tax was withheld, then a refund will be issued on the amount representing the difference between the deferred income that was taxed and the income received from the NDCP. If different tax rates applied to the tax years in which deferrals, a weighted average of the different tax rates will be used to compute the refund amount.
  - (3) Refunds shall be allowed only if the loss is attributable to the bankruptcy of the employer who had established the NDCP, or the employee's failure or inability to satisfy all of the employer's terms and conditions necessary to receive the nonqualified compensation.
- (d) Income tax that has been deposited with grove city, but should have been deposited with another municipality, is allowable by grove city as a refund but is subject to the three-year limitation on refunds. Income tax that should have been deposited with Grove City, but was deposited with another municipality, shall be subject to recovery by Grove City. Grove City will allow a non-refundable credit for any amount owed grove city that is in excess of the amount to be refunded by the other municipality, as long as the tax rate of the other municipality is the same or higher than grove city's tax rate. If Grove City's tax rate is higher, the tax representing the net difference of the rates is also subject to collection by Grove City.
- (Ord. C7-71. Passed 3-1-71.)

#### 191.07 COLLECTION AT SOURCE.

- (a) Each employer within or doing business within the City, shall deduct at the time of payment of such income, salaries, wages, commissions or other compensation, the tax of two percent (2%) of the gross income, salaries, wages, commissions or other compensation due by the employer to such employee and shall, ~~on or before the last day of the month following the close of each calendar quarter,~~ make a return showing the amount of taxes so deducted, and the return shall include a record of payments showing that all taxes deducted during the quarter withholding period have been paid to the City in accordance with the payment schedule prescribed in paragraphs (1), (2) and (3) hereof. Such employer shall be liable for the payment of the tax required to be deducted and withheld, whether or not such taxes have in fact been withheld. Every employer or officer of a corporation is deemed to be a trustee for this municipality in collecting and holding the tax required under the chapter to be withheld and the funds so collected by such withholding are deemed to be trust funds. Employers shall pay to the City all income taxes withheld or required to be deducted and withheld on either a semimonthly, monthly or quarterly basis depending on the amount of taxes involved according to the following payment schedule: (Ord. C73-77. Passed 9-19-77; Ord. C88-89. Approved by electors 11-8-83.)

- (1) Semimonthly payment of the taxes deducted are to be made by an employer if the total taxes deducted in the prior calendar year were twelve thousand dollars (\$12,000) or more, or the amount of taxes deducted for any month in the preceding quarter exceeded one thousand dollars (\$1,000). Such payment shall be paid to the City within five banking days after the fifteenth and the last day of each month. (Ord. C55-75. Passed 9-2-75.)
  - (2) Monthly payments of taxes withheld shall be made by an employer if the taxes withheld in the prior calendar year were less than twelve thousand dollars (\$12,000) but more than three thousand five hundred ninety-nine dollars (\$3,599), or if the taxes withheld during any month for the preceding quarter exceeded three hundred dollars (\$300.00). Such payments shall be paid to the City within fifteen days after the close of each calendar month. ~~However, those taxes accumulated for the third month of a calendar quarter by employers making monthly payment pursuant to this paragraph need not be paid until the last day of the month following such quarter.~~ (Ord. C55-75. Passed 9-2-75; Ord. C104-90. Passed 12-17-90.)
  - (3) All employers not required to make semimonthly or monthly payments of taxes withheld under paragraphs (1) and (2) hereof shall make quarterly payments no later than the last day of the month following the end of each quarter. (Ord. C55-75. Passed 9-2-75.)
- (b) The employer shall make and file a return on a form furnished by the Director of Finance, showing the amount of tax deducted by the employer from the **income**, salaries, wages, commissions or other compensation of any employee and paid by the employer to the City. ~~Such employer's return shall be accepted as the return required of an employee whose sole income subject to the tax under this chapter is the salaries, wages, commissions and other compensation returned by the employer.~~
  - (c) Each employer on or before January 31, unless written request for thirty days extension is made to and granted by the Director following any calendar year in which such deductions have been made, or should have been made by any employer, shall file with the Director an information return, Grove City Withholding Statement of Wages Paid and Grove City Income Tax Withheld, for each employee from whom income tax has been or should have been withheld showing the name, and address, and **social security number** of the employee, the total amount of **income**, salaries, wages, commissions and other compensation paid the employee during the year and the amount of City income tax withheld from each employee. (Ord. C7-71. Passed 3-1-71.)
  - (d) Where a resident of the City performs service for his employer in another municipality, which services are subject to withholding in the other municipality, the employer shall have the authority to reduce the withholding to the City to the extent of the tax liability in the other municipality, **but the reduction shall not exceed a tax rate of two percent (2%).**
  - (e) The officer or the employee having control or supervision of or charged with the responsibility of filing the report and making payment, is personally liable for failure to file the report or pay the tax due as required by this section. The dissolution of a corporation does not discharge an officer's or employee's liability for a prior failure of the corporation to file returns or pay tax due. (Ord. C73-77. Passed 9-19-77.)
  - (f) **No person shall be required to withhold the tax on salaries, wages, commissions, other compensation and other income paid domestic workers employed by such person exclusively in or about such person's residence, even though the residence is in the city, but such employee shall be subject to all of the requirements of this chapter, including the requirement for remitting estimated payments.**

#### 191.08 DECLARATIONS.

- (a) Every person who anticipates any taxable income which is not subject to Section 191.07, or who engages in any business, profession, enterprise or activity subject to the tax imposed by Section 191.02, shall file a declaration setting forth such estimated profit or loss from such business activity together with the estimated tax due thereon, if any; provided, however, if a person's income is wholly from wages, salaries, commissions or other compensation from which the tax will be withheld and remitted to the City in accordance with Section 191.07, such person need not file a declaration. Such declaration shall be filed on or before April 30 15 of each year on a form furnished by, or obtainable from, the Director of Finance, or on an acceptable generic form. ~~or on or before the last day of the fourth month the taxpayer becomes subject to tax for the first time.~~
- (b) Those taxpayers reporting on a fiscal year basis shall file a declaration ~~on or before the last day of the fourth month~~ within 105 days after the beginning of such fiscal year or period. Such declaration shall be filed on a form furnished by or obtainable from the Director of Finance; provided, however, credit shall be taken for the City tax to be withheld from any portion of such income. In accordance with the provisions of Section 191.07, credit may be taken for tax to be paid to or to be withheld and remitted to another taxing municipality.
- (c) The original declaration or any subsequent amendment thereof, may be increased or decreased on or before any subsequent quarterly payment date as provided for herein. (Ord. C7-71. Passed 3-1-71.)
- (d) (1) Such declarations of estimated tax to be paid the City by taxpayers who are individuals shall be accompanied by a payment of at least one-fourth of the estimated tax and at least a similar amount shall be paid on or before the last day of the sixth, ninth and twelfth seventh, tenth and thirteenth months after the beginning of the taxable year. Provided, however, that in case an amended declaration has been filed, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment dates. ~~On or before the last day of the fourth month of the year following that for which such declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due the City shall be paid therewith in accordance with the provisions of Section 191.04. A declaration of estimated tax which is less than eighty percent of the tax shown on the final return shall not be considered filed in good faith. The difference shall be subject to penalties and interest as provided for in Section 191.13. (Ord. C73-77. Passed 9-19-77.)~~
- (2) Estimated tax to be paid the city by taxpayers who are corporations and associations shall be accompanied by a payment of at least one-fourth the estimated tax required to be paid by this section, and at least a similar amount shall be paid on or before the fifteenth day of the sixth, ninth, and twelfth month of the taxable year. Provided, however, that in case an amended declaration has been filed, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment dates.
- (e) (1) No penalties or interest shall be assessed, for not filing a declaration, on any resident taxpayer who was not domiciled in the city of grove city on the first day of January in the year in which they became subject to estimated payments.
- (2) Penalties or interest shall not be assessed on estimated payments if the taxpayer has remitted an amount equal to one hundred percent (100%) of the previous year's tax

**liability, provided that the previous year reflected a twelve-month period and the taxpayer filed a return for that year.**

- (3) Penalties or interest shall not be assessed if the taxpayer has been credited with at least ninety percent (90%) of the total estimated liability (i.e., total estimated taxable income) by the due dates for fourth quarter payments.**

#### **191.09 DUTIES OF DIRECTOR OF FINANCE.**

- (a) The Director of Finance shall collect and receive the tax imposed by this chapter in the manner prescribed herein and he shall also keep an accurate record showing the payment received by him from each taxpayer and the date of the payment. **It shall be the duty of the director of finance to enforce payment of all taxes owed the city, to keep accurate records for a minimum of six years showing the amount due from each taxpayer required to file a declaration and/or make any return, including taxes withheld, and to show the dates and amounts of payment thereof.**
- (b) The Director or his delegate is hereby charged with the administration and enforcement of the provisions of this chapter and they are hereby empowered to adopt, promulgate and enforce rules and regulations relating to any matter or thing pertaining to the administration and enforcement of the provisions of this chapter, including provisions for the reexamination and correction of returns and payments. **Taxpayers are hereby required to comply with the requirements of this chapter and the rules and regulations.**
- (c) In any case where a taxpayer has failed to file a return to pay the tax due on a return or has filed a return which does not show the proper amount of tax due, the Director or his delegate may determine the amount of tax appearing to be due the City from the taxpayer based on any information in his possession and send to such taxpayer a written statement showing the amount of tax so determined, together with interest and penalties thereon, if any. **Such determination may be modified or amended based upon information or data subsequently secured by or made available to the director of finance. If the taxpayer fails to respond to the assessment within 30 days, the tax, penalties, and interest assessed shall become due and payable and collectible as are other unpaid taxes.** (Ord. C7-71. Passed 3-1-71.)

#### **191.10 INVESTIGATIVE POWERS OF THE DIRECTOR OF FINANCE.**

- (a) The Director of Finance or his delegate, or any authorized employee, is hereby authorized to examine the books, papers, records and Federal **and State** income tax returns of any employer or of any taxpayer or person subject to, or who the Director or his delegate believes is subject to the provisions of this chapter for the purposes of verifying the accuracy of any return made, or, if no return was made, to ascertain the tax due under this chapter. Every such employer, supposed employer, taxpayer or supposed taxpayer is hereby directed and required to furnish **within ten (10) calendar days following a** upon written request by the Director or his delegate, or his duly authorized agent or employee, the means, facilities and opportunity for making such examinations and investigations as are hereby authorized.
- (b) The Director and his delegate are each hereby authorized to order any person presumed to have knowledge of the facts to appear before him and may examine such person, under oath, concerning any income which was or would have been returned for taxation or any transaction tending to affect such income and for this purpose may compel the production of books, papers, records and Federal **AND STATE** income tax returns and the attendance of all persons before him, whether as parties or witnesses whenever he believes such persons have knowledge of the income or information pertinent to the inquiry. (Ord. C7-71. Passed 3-1-71.)

#### **191.11 TAX INFORMATION CONFIDENTIAL.**

Any information gained as the result of any returns, investigations, hearings or verification required or authorized by this chapter shall be confidential, except for official **tax** purposes, or except in accordance with proper judicial order. Any person divulging such information in violation of this chapter shall be fined ~~not more than fifty five hundred~~ dollars (\$500.00). **In addition, any employee of the city who violates the provisions of this section relative to disclosures of confidential information shall be immediately dismissed from the service of the city.** Each disclosure constitutes a separate offense. (Ord. C7-71. Passed 3-1-71.)

#### **191.12 COLLECTION OF UNPAID TAXES.**

- (a) All taxes imposed by this chapter shall be collectible, together with any interest and penalties thereon, by suit, as other debts of like amount are recoverable. The Director of Finance is authorized, in addition to his other duties, to institute civil lawsuits to collect delinquent taxes due and owing the City by virtue of the provisions of this chapter. **The suits shall be brought within three years after the tax was due or the return was filed, whichever is later. However, in the case of fraud, omission of 25% or more of income subject to this tax, or failure to file a return, all additional assessments shall be made and all prosecutions to recover municipal income taxes and penalties and interest thereon shall be brought within six (6) years after the tax was due or the return was filed, whichever is later.** The Director is authorized to waive penalties and interest and compromise tax liability and the right to accept waiver of State Statutes of Limitations.
- (b) **In those cases in which the commissioner of internal revenue and the taxpayer have executed a waiver of the federal statute of limitations, the period within which an additional assessment may be made by the director of finance shall be one year from the time of the final determination of the federal tax liability.**  
(Ord. C7-71. Passed 3-1-71.)

#### **191.13 INTEREST AND PENALTIES.**

- (a) All taxes imposed by this chapter and remaining unpaid after they become due shall bear interest, in addition to the amount of the unpaid tax, at the rate of eighteen percent (18%) per year, and the taxpayers upon whom the taxes are imposed by this chapter shall be liable, in addition thereto, to a penalty of ten percent (10%) **per year** of the amount of the unpaid tax. (Ord. C13-82. Passed 3-1-82.)
- (b) A penalty shall not be assessed on an additional tax assessment made by the Director of Finance when a return has been filed in good faith and the tax paid thereon within the time prescribed by the Director; provided, that, in the absence of fraud, neither penalty nor interest shall be assessed on any additional tax assessment resulting from a Federal audit, providing an amended return is filed and the additional tax is paid within three months after final determination of the Federal tax liability. (Ord. C7-71. Passed 3-1-71.)
- (c) All taxes deducted by an employer or required to be deducted and withheld by an employer and remaining unpaid after they become due pursuant to Section 191.07(a)(1), (2) and (3), shall bear interest on the amount of such unpaid taxes at the rate of eighteen percent (18%) per annum and in addition, a penalty of ten percent (10%) **per year** to the amount of the unpaid taxes. (Ord. C13-82. Passed 3-1-82.)

#### **191.14 EXEMPTIONS.**

- (a) ~~The provisions of this chapter shall not be construed to tax the military pay or allowances of members of the armed forces of the United States, or the income of religious, fraternal,~~

~~charitable, scientific, literary or educational institutions to the extent that such income is derived from tax exempt real estate, tax exempt tangible or intangible property or tax exempt activities.~~

- ~~(b) The tax provided for herein shall not be levied on the personal earning of any natural person under eighteen years of age.~~

The tax provided for herein shall not be levied upon the following:

- (a) The military pay or allowances of members of the armed forces of the united states and of members of their reserve components, including the national guard.
- (b) Unemployment compensation, payments from pension plans or similar payments, including, disability payments received from private industry, or local, state, or federal governments, or from charitable, religious or educational organizations, and the proceeds of sick, accident, or liability insurance policies. The disability benefits excludable must be a permanent nature as determined by a physician or government entity.
- (c) Compensation for personal injuries or for damages to property by way of insurance or otherwise, but this exclusion does not apply to compensation paid for lost salaries or wages or to compensation from punitive damages.
- (d) Alimony received. Alimony used herein shall be as defined the internal revenue service.
- (e) Receipts by bona fide charitable, religious and educational organizations and associations, when those receipts are from casual entertainment, amusements, sports events, and health and welfare activities conducted by bona fide charitable, religious or educational organizations and associations, and only to the extent that the said receipts are income that is exempt from federal income tax.
- (f) Income, dues, and contributions received by religious, fraternal, charitable, scientific, literary, educational institutions or organizations, labor unions and similar organizations.
- (g) Any association, organization, corporation, club or trust which is exempt from federal taxes on income by reason of its purpose(s), but only to the extent that the said income is exempt from federal income tax.
- (h) Gains from involuntary conversion, collection of indebtedness, interest income received by corporations not regularly engaged in the business of lending money or banking as described in section 581 of the internal revenue code, interest on federal, state, municipal, or other political subdivision obligations, items of income already taxed by the state of ohio, gains from sale of capital assets as defined by the internal revenue code, any dividends received from any other corporation, but only to the extent that such dividends are included in net profits, and income of a decedent's estate during the period of administration (except such income from the operation of a business).
- (i) Earnings and income of all persons under eighteen (18) years of age whether residents or non-residents of the city.
- (j) Compensation paid to a precinct election official, to the extent that such compensation does not exceed \$1,000 annually.
- (k) Parsonage allowance, to the extent of the rental allowance or rental value of a house provided as a part of an ordained minister's compensation. The minister must be duly



ordained, commissioned, or licensed by a religious body constituting a church or church denomination, and must have authority to perform all sacraments of the church.

(l) The income of a public utility when that public utility is subject to the tax levied under Section 5727.24 or 5727.30 of the Ohio Revised Code. However, subject to Section 5745 of the Ohio Revised Code, starting January 1, 2002 this exemption does not apply to the income of an electric company or combined company, and starting January 1, 2004 it does not apply to the income of a telephone company, as both are defined in Section 5727.01 of the Ohio Revised Code.

(m) Income, salaries, wages, commissions and other compensation and net profits, the taxation of which is prohibited by the united states constitution or any act of congress limiting the power of the states or their political subdivisions to impose net income taxes on income derived from interstate commerce, and/or is prohibited by the constitution of the State of Ohio or any act of the Ohio General Assembly limiting the power of a municipality to impose net income taxes.

#### **191.15 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY.**

Every individual taxpayer who resides in the City but who received net profits, income, salaries, qualifying wages, commissions, rents or other compensation for work done or services performed or rendered outside of the City, if it is made to appear that he has paid a municipal income tax or excise tax based on income, on such net profits, income, salaries, qualifying wages, commissions, rents or compensation in another municipality, shall be allowed a credit for the amount so paid by him or in his behalf in such other municipality. This credit is applied only to the extent of the tax assessed by this chapter, by reason of such net profits, income, salaries, qualifying wages, commissions, rents or compensation earned in such other municipality where such tax is paid. (Ord. C7-71. Passed 3-1-71.)

#### **191.16 CONTRACT PROVISIONS.**

No contract on behalf of the City for works or improvements of the City shall be binding or valid unless such contract contains the following provisions:

"Said \_\_\_\_\_ hereby further agrees to withhold all City income taxes due or payable under the provisions of Income Tax Ordinance, for qualifying wages, salaries, and commissions paid to its employees and further agrees that any of its sub-contractors shall be required to agree to withhold any such City income taxes due under this chapter for services performed under this contract. "

#### **191.17 ALLOCATION OF FUNDS**

The funds collected under the provisions of this chapter shall be deposited in the General Fund and the funds shall be disbursed for the following purposes and in the following order:

- (a) Such part thereof as shall be necessary to defray all costs of collecting the taxes levied by this chapter and the cost of establishing the Department of Taxation and administering and enforcing the provisions thereof;
- (b) The balance of such fund, after providing for the requirements in subsection (a) herein, shall be transferred in the General Fund. (Ord. C7- 71, Passed 3-1- 71.)

#### **191.18 SEPARABILITY.**

If any sentence, clause, section or part of this chapter, or any tax against any individual or any of the several groups specified herein, is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall affect only such clause, sentence, section or part of this chapter and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this chapter. It is hereby

declared to be the intention of Council that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein. (Ord. C7-71. Passed 3-1-71.)

**191.19            LIMITATION OF PROSECUTION.**

All prosecutions under this chapter must be commenced within time limits specified by Ohio R.C. 718.0612.

**191.20            COLLECTION OF TAX AFTER TERMINATION OF ORDINANCE.**

This Chapter shall continue effective insofar as the levy of taxes is concerned for an indefinite period. This Chapter and all prior chapter 191's shall continue to be effective until all taxes, penalties and interest due under the said chapters are fully paid and all tax returns due are filed, and any and all civil litigation and criminal prosecutions for the collection of said taxes have been fully consummated.

**191.21            BOARD OF REVIEW.**

- (a) A Board of Review, consisting of a chairman and two other individuals, each to be appointed by the mayor and approved by council, is hereby created. A majority of the members of the board shall constitute a quorum. The board shall adopt its own procedural rules and shall keep a record of its transactions. Any hearing by the board may be conducted privately and the provisions of section 191.11 with reference to the confidential character of information required to be disclosed by this chapter shall apply to such matters as may be heard before the board.
- (b) All rules and regulations and amendments or changes thereto, which are adopted by the director of finance under the authority conferred by this chapter, must be approved by the board of review before the same becomes effective. The board shall hear and pass on appeals from any ruling or decision of the director of finance, and at the request of the taxpayer or director of finance, is empowered to substitute alternate methods of allocation.
- (c) Any taxpayer dissatisfied with any ruling or decision of the director of finance which was made under the authority conferred by this chapter and who has filed the required returns or other documents pertaining to the contested issue may appeal therefrom to the board of review within thirty (30) calendar days from the issuance of such ruling or decision by the director of finance. The appeal shall be in writing and shall state why the decision should be deemed incorrect or unlawful. The board must schedule a hearing within forty-five (45) calendar days of receiving the appeal unless the taxpayer expressly waives the hearing and chooses instead to let the board render its decision on the writings submitted by the director of finance and the taxpayer. If the taxpayer does not waive the hearing, the taxpayer is entitled to appear before the board and bring with him or her representation of his or her choosing. The board must issue a written decision within ninety (90) days after the final hearing and send a notice of its decision by ordinary mail to the taxpayer within 15 days after issuing the decision. A hearing held in accordance with this section is not a meeting of a public body subject to orc 121.22.
- (d) Any person dissatisfied with any ruling or decision of the board of review may appeal therefrom to a court of competent jurisdiction as provided by law within thirty (30) calendar days from the date of the board's ruling or decision. For matters relating to tax years beginning on or after January 1, 2004, any ruling or decision of the board of review may be appealed to a court of competent jurisdiction or to the state board of tax appeals.

**191.22            RULES AND REGULATIONS.**

The Council of the City of Grove City adopts the Regional Income Tax Agency (RITA) rules & regulations for use as the Grove City Income Tax rules and regulations, and they are hereby

incorporated by reference as part of this Chapter. In the event of a conflict with any provision(s) of Chapter 191 and the RITA rules & regulations, the Chapter will supersede.

**191.99 PENALTY.**

- (a) No person subject to the provisions of this chapter shall do any of the following:
- (1) Fail, neglect or refuse to make and file any return or declaration;
  - (2) Fail, neglect or refuse to pay the tax, interest or penalty imposed by this chapter;
  - (3) Knowingly make and file an incomplete, false or fraudulent return;
  - (4) Refuse to permit the director of finance or any duly authorized agent or employee to examine the books, records, papers and federal and state income tax returns relating to the income or net profits of a taxpayer;
  - (5) Fail to appear before the director of finance and to produce the books, records, papers or federal and state income tax returns relating to the income or net profits of a taxpayer upon order or subpoena of the director of finance;
  - (6) Refuse to disclose to the director of finance any information with respect to the income or net profit of a taxpayer;
  - (7) Fail to comply with the provisions of this chapter or any order or subpoena of the director of finance authorized hereby;
  - (8) Give to an employer false information as to the true name, correct social security number and residence address or promptly notify an employer of any change in residence address and date therefore;
  - (9) Fail to use ordinary diligence in maintaining proper records of employees' residence addresses, total wages paid and city tax withheld, or to knowingly give the director of finance false information;
  - (10) Attempt to do anything whatsoever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this chapter.
- ~~(3) — Being a corporation or business association fail, neglect or refuse to permit the City Auditor or his duly authorized agent or employee the opportunity to examine their books, records and papers by failing to produce such information at the reasonable time and place designated pursuant to Section 191.10; or~~
- ~~(4) — Knowingly make and file an incomplete, false or fraudulent return.~~
- (b) ~~No employer shall fail, neglect or refuse to deduct and withhold the taxes or pay the taxes imposed by this chapter.~~
- (eb) The failure of an employer or taxpayer to receive or procure a return or declaration form, shall not excuse either one from making a return or declaration or paying the tax levied under this chapter.

- (~~d~~c) Whoever violates any provision set forth above ~~of this chapter~~ shall be guilty of a misdemeanor of the fourth degree and upon conviction thereof, shall be fined in a sum not to exceed two hundred fifty dollars (\$250.00) or imprisoned for a period not to exceed thirty days or both for a first offense, and shall be fined not more than one thousand dollars (\$1,000) or imprisoned not more than six months for a second or subsequent conviction. (Ord. C104-90. Passed 12-17-90.)